

FILED
MAR 02 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

FRANK JAMES DADE,
Petitioner,

Civil No. 11-204-AC

ORDER

v.

STATE OF OREGON,
Respondent.

ACOSTA, Magistrate Judge.

Petitioner, an inmate at the Davis County Jail in Farmington, Utah, initiated this action by submitting a document entitled "Motion to Dismiss" under the caption "State of Oregon Multnomah County Courthouse." In his Motion, Petitioner seeks dismissal of "the above-entitled cause of action" and states he is "trying to resolve all state warrants." The Motion was accompanied by a letter addressed to the Honorable Anna J. Brown of this court. In

the letter, Petitioner discusses an incident in which he gave a false name to unspecified "security." The letter concludes with a request to "dismiss this charge."

Upon a review of the records of this Court, no record of any federal criminal charge against Petitioner could be located. As such, it appears the charge in question may have been lodged against Petitioner in state court. Petitioner may be able to challenge the legality of any future confinement on the state charges in a habeas corpus action under 28 U.S.C. § 2241(c)(3). See Harrison v. Ollison, 519 F.3d 952, 955 (9th Cir. 2008) (a petitioner may challenge future imposition of sentence for which detainer has been lodged while in custody for an earlier sentence of a different sovereign) (citing Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484 (1973)). It is not apparent from Petitioner's Motion, however, that he intends to do so.

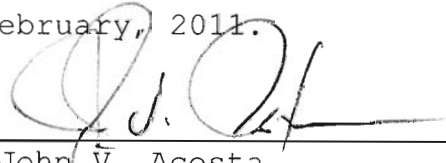
Accordingly, IT IS ORDERED that Petitioner shall 30 days from the date of this Order to either file a formal Petition for Writ of Habeas Corpus or, in the alternative, inform the Court that he does not wish to pursue such a remedy. Petitioner is advised that should he wish to pursue a remedy in habeas corpus, he will be required to either pay a \$5.00 filing fee or submit an application to proceed *in forma pauperis*. See 28 U.S.C. §§ 1914, 1915.

The Clerk of the Court is DIRECTED to send Petitioner a form Petition for Writ of Habeas Corpus and a form Application to

Proceed *In Forma Pauperis*. Petitioner is further advised that if he fails to comply with this Order within the time provided this action shall be dismissed.

IT IS SO ORDERED.

DATED this 24th day of February, 2011.



John V. Acosta
United States Magistrate Judge